

Clerk's Stamp:

COURT FILE NO.

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

APPLICANTS

GRACELIFE CHURCH OF EDMONTON, JAMES COATES, DONNA KLAY, ALLAN NEILL and ACHNES SMITH

RESPONDENTS

THE PROVINCE OF ALBERTA AS REPRESENTED BY THE MINISTER OF HEALTH, THE CHIEF MEDICAL OFFICER OF HEALTH, and ALBERTA HEALTH SERVICES

DOCUMENT

**NOTICE OF APPLICATION**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

Justice Centre for Constitutional Freedoms  
#253, 7620 Elbow Drive SW  
Calgary, AB T2V 1K2  
Attention: Leighton B. U. Grey, Q.C.  
James S. M. Kitchen  
Phone: 780-594-0299  
403-475-3622  
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### **NOTICE TO THE RESPONDENTS**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: June 10, 2021

Time: 10:00 am

Where: Edmonton Law Courts

Before: Justice in Chambers

Go to the end of this document to see what you can do and when you must do it.

## REMEDY SOUGHT

1. An Order for an interlocutory injunction staying and suspending enforcement thereof (including all orders issued by AHS Executive Officers pursuant to):
  - a. The requirement that “faith leaders” limit attendance at worship services (such as 15% or 30% venue capacity, most current iteration being section 7.2 of CMOH Orders 19-2021 and 20-2021, issued 6 May 2021, (the “Capacity Restriction”);
  - b. The requirement that individuals maintain 2 meters physical distance from each other unless relevant exceptions apply, including when attending worship services (most current iteration being section 2(1) of CMOH Order 26-2020, issued 6 June 2020, (the “Distancing Restriction”); and
  - c. The requirement that individuals cover their face when at an indoor public place, including when attending worship services (most current iteration being section 3.1 of CMOH Order 22-2021, issued 13 May 2021, (the “Masking Restriction”).  
(Collectively, the “Worship Restrictions”)
2. In the alternative, an Order for an interlocutory injunction exempting GraceLife from enforcement of the Worship Restrictions, including any orders issued by AHS Executive Officers against GraceLife.
3. An Order restoring possession, control and peaceful enjoyment of the GraceLife church property and removing all surrounding barricades.
4. An interlocutory Order prohibiting the Respondents from interrupting or disturbing GraceLife Sunday morning worship services, including prohibition from attending GraceLife property on Sunday mornings until the Court determines the Constitutionality of the impugned Worship Restrictions.
5. Aggravated costs of this application in the form of a multiplier applied to column 1; and
6. Such further and other relief as counsel may advise and this Honourable Court deems just and equitable.

## **GROUND FOR MAKING THIS APPLICATION**

7. The Applicants, GraceLife Church of Edmonton (“GraceLife”), James Coates (“Pastor Coates”), Achnes Smith, Allan Neill, and Donna Klay (Collectively referred to as the “Applicants”) have filed an Originating Application seeking remedies pursuant to section 52(1) of the *Constitution Act, 1982*, striking down the Worship Restrictions as unjustified limitations of sections 2(a), 2(b), 2(c), 2(d), and 7 of the *Charter*.
8. The Applicants herein seek interlocutory injunctive relief pending the outcome of their constitutional challenge to the Worship Restrictions. Without such relief, they will continue to be denied access to their place of worship, which has been seized and barricaded by Alberta Health Services. The Applicants meet the tripartite test of showing a serious issue to be tried, that they will suffer irreparable harm, and that the balance of convenience favours staying the Worship Restrictions.

### **Affidavit or other evidence to be used in support of this application:**

9. The Affidavit of Allan Neill, sworn May 3, 2021;
10. The Affidavit of Achnes Smith, sworn May 2, 2021;
11. The Affidavit of Donna Klay, sworn May 11, 2021;
12. The Affidavit of Robert Chomiak, sworn May 27, 2021;
13. The Affidavit of James Coates, to be filed;
14. The Expert Report of Dr. Thomas Warren;
15. The Expert Report of Dr. Byram W. Bridle;
16. The Expert Report of Dr. Martin Koebel; and
17. Such further and other material or evidence as counsel may advise and as this Honourable Court may permit.

**Applicable Acts and regulations:**

18. *Alberta Rules of Court*, Alta Reg 124/2010;
19. *Judicature Act*, RSA 2000, c J-2;
20. *The Constitution Act, 1982*, Schedule B to the Canada Act 1982 (UK), 1982, c 11;
21. *The Canadian Charter of Rights and Freedoms*;
22. *Public Health Act*, RSA 2000, c P-37; and
23. Such other enactments as counsel may advise.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.